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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,411	04/20/2004	Joel A. Kubby	A3149-US-NP2	4533

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EXAMINER

LEUNG, JENNIFER

ART UNIT	PAPER NUMBER
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3714

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/828,411	Applicant(s) KUBBY ET AL.	
	Examiner Jennifer Leung	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/13/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/20/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-6 and 19-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Martin (US 5,610,674).**

Re claim 1. Martin discloses a video game system (col. 3, lines 65-67) including a video game system controller that is arranged to execute a video game program, the video game system further including a micromechanical dispensing device that is arranged to dispense at least one fluid into an atmosphere under control of the video game system controller (col. 7, lines 10-15).

Re claim 2. Martin further discloses the video game system of claim 1, the video game system controller arranged to execute the video game program for the use of one or more video game players (Figs. 1 and 2).

Re claim 3. Martin further discloses the video game system of claim 2, wherein the one or more video game players are located in the atmosphere (Figs. 1 and 2).

Re claim 4. Martin further discloses the video game system of claim 1 further comprising one or more video game components (53, Fig. 2).

Re claim 5. Martin further discloses the video game system of claim 4, wherein the one or more video game components comprise one or more of any of the following: video display units, audio speakers, human hand control input devices, joysticks, keyboards, cursor control devices and computer mouse devices (53, Fig. 2).

Re claim 6. Martin further discloses the video game system of claim 1, wherein the video game system controller comprises any of a video game console (66, 67, Fig. 2), a personal computer, a desktop computer, a laptop computer, a computing device, a communication device, a video game playing device, a personal digital assistant, a portable computing device, a portable communication device, and a wireless phone.

Re claim 19. Martin further discloses the video game system of claim 1, wherein the micromechanical dispensing device comprises one or more micromechanical dispensing mechanisms arranged to dispense one or more fluids into the atmosphere (Figs. 3-4; col. 4, lines 5-30), each of the one or more micromechanical dispensing mechanisms arranged to fluidly couple to a corresponding fluid reservoir of one or more fluid reservoirs (Figs. 3-4, 7-8, 8A; col.5, lines 5-19).

Re claim 20. Martin further discloses the video game system of claim 19, wherein any of the one or more fluid reservoirs contain a fluid comprising any of a fragrance, perfume, therapeutic, mood-enhancing agent, pheromone, moisturizer and humectant (col.5, lines 5-19).

Re claim 21. Martin further discloses the video game system of claim 19, wherein any of the one or more micromechanical dispensing mechanisms comprise any of an electrostatically-driven membrane, an electrostatically-actuated piston, a magnetically-actuated membrane, a thermally-actuated paddle vane and a ballistic aerosol dispensing mechanism (col. 5, lines 55-65).

Re claims 22-24: For the features of these claims, see rejections of claims 19-21.

Re claim 25. Martin further discloses the video game system of claim 1, wherein the micromechanical dispensing device comprises a micromechanical dispensing mechanism arranged to dispense a plurality of fluids into the atmosphere (Fig. 3), the micromechanical dispensing mechanism being fluidly coupled to an included valve (84, Fig. 3), wherein the valve is arranged to selectively fluidly couple the micromechanical dispensing mechanism to a plurality of fluid reservoirs (74, Fig. 3).

Re claims 26-27, 29-30: For the features of these claims, see rejections of claims 20-21.

Re claim 28. Martin further discloses the video game system of claim 1, wherein the micromechanical dispensing device comprises a plurality of micromechanical dispensing mechanisms arranged to dispense a fluid into the atmosphere, the plurality of micromechanical dispensing mechanisms arranged to fluidly couple to a fluid reservoir (Fig. 8A; col. 5, lines 55-65).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin in view of Carter (US 4,702,418).

Re claim 7: Martin further discloses communicating a sensor signal to the video game system controller (col. 2, lines 1-15; col. 3, lines 30-35).

However, Martin fails to disclose a system sensor arranged to form a system sensor signal based on an atmospheric substance comprised in the atmosphere. Carter discloses such (col. 1, lines 47-51).

Therefore, in view of Carter, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the aforementioned limitation in

order for the video game system to determine whether the scent in the air is strong enough to be sensed by the player.

Re claim 8. Martin, as modified by Carter, discloses wherein the video game system controller is arranged to control the micromechanical dispensing device based on the system sensor signal (col. 2, lines 1-15; col. 3, lines 30-35 of Martin and col. 1, lines 47-51 of Carter).

Re claim 9. Martin, as modified by Carter, discloses wherein the atmospheric substance comprises the at least one fluid that is dispensed by the micromechanical dispensing device (col. 1, lines 25-30).

Re claim 10. Martin, as modified by Carter, teaches wherein the atmospheric substance comprises a human body fluid (col. 1, lines 52-55 of Carter).

Re claim 11. Martin, as modified by Carter, teaches wherein the atmospheric substance comprises an odor or fragrance that is formed by a human body (col. 1, lines 52-55 of Carter).

Re claim 12. Martin, as modified by Carter, teaches wherein the atmospheric substance comprises an odor or fragrance that is formed by any of one or more video game players (col. 1, lines 52-55 of Carter).

Re claim 13. Martin further discloses communicating a sensor signal to the video game system controller (col. 2, lines 1-15; col. 3, lines 30-35).

However, Martin fails to disclose the micromechanical dispensing device further comprises a dispensing device sensor arranged to form a system sensor signal based on an atmospheric substance comprised in the atmosphere. Carter discloses such (col. 1, lines 47-51).

Therefore, in view of Carter, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the aforementioned limitation in order for the video game system to determine whether the scent in the air is strong enough to be sensed by the player.

Re claims 14-18: For the features of these claims, see rejections of claims 8-12.


Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Potter discloses a computer game enhancement. Gau discloses a controlled odor generator. Shyu discloses an interior atmosphere control system. Bartsch discloses a home cleaning robot. Manne discloses a multimedia linked scent delivery system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Leung whose telephone number is 571-270-1342. The examiner can normally be reached on Mon -Thur, every other Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jennifer Leung
May 3, 2007


Robert E. Pezzuto
Supervisory Patent Examiner
Art Unit 3714